

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

PENNY/OHLMANN/NIEMAN,  
INC., et al.,

Plaintiffs,

-vs-

MIAMI VALLEY PENSION CORP.,  
et al.,

Defendants.

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Case No. 3:02-cv-156

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District Judge Thomas M. Rose  
Chief Magistrate Judge Michael R. Merz

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**ORDER ADOPTING REPORT AND RECOMMENDATIONS**

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The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #51), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired on June 7, 2005, hereby ADOPTS said Report and Recommendations.

It is therefore ORDERED that this case be dismissed without prejudice pursuant to 28 U.S.C. §1367.

June 9, 2005.

s/**THOMAS M. ROSE**

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Thomas M. Rose  
United States District Judge